REMARKS

In the Official Action dated June 10, 2004, the Examiner rejected Claims 1-11 under 35 U.S.C. §103(a) as allegedly unpatentable over McClure et al. (U.S. Patent No. 6,696,464). Claims 1-11 have been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 5, 15, 49 and 50 of U.S. Patent No. 6,696,464. Claims 1-11 have also been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-5 and 7-11 of copending Application No. 10/649,236. Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-9 of copending Application No. 10/649,227 in view of McClure (6,696,464). Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-10 of copending Application No. 10/649,265 in view of McClure (6,696,464). Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-10 of copending Application No. 10/649,216 in view of McClure (6,696,464).

This response addresses each of the Examiner's objections and rejections. Accordingly, the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Claims 12-17 have been cancelled without prejudice for being drawn to a non-elected subject matter. Applicants reserve the right to file continuing applications drawn to the deleted subject matter. No new matter has been added. Applicants respectfully request entry of this amendment.

Claims 1-11 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over McClure et al. (U.S. Patent No. 6,696,464). Applicants respectfully traverse.

The '464 patent cannot preclude patentability of the claimed invention under 35 U.S.C. § 103(c). 35 U.S.C. § 103(c) states that

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person".

In the instant case, the '464 patent and the present application were commonly owned by Pfizer Inc. at the time the present invention was made. In order to provide the requisite evidence required to establish common ownership of the `464 patent and the present application, Applicants hereby make the following statement in accordance with MPEP 706.02(1)(2).

STATEMENT OF COMMON OWNERSHIP

Applicants of U.S. Serial No. 10/649,255 state that:

U.S. Serial No. 10/649,255 and U.S. Patent No. 6,696,464 were, at the time the invention of U.S. Serial No. 10/649,255 was made, owned by Pfizer Inc.

Because the '464 patent can only qualify as prior art under subsection (e) of 35 U.S.C. §102, 35 U.S.C. §103(c) dictates that the '464 patent does not preclude patentability of the claimed invention.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection under 35 U.S.C. §103(a).

Claims 1-11 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 15 49, and 50 of U.S. Patent No. 6,696,464. In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-5, and 7-11 of copending Application No. 10/649,236. In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

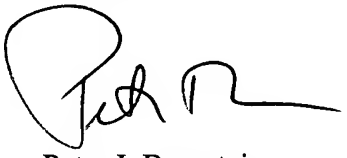
Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 of copending Application No. 10/649,227 in view of McClure (6,696,464). In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-10 of copending Application No. 10/649,265 in view of McClure (6,696,464). In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/649,216 in view of McClure (6,696,464). In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Thus, in view of the foregoing amendments and remarks, the application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Peter I. Bernstein
Registration No. 43,497

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

PIB/RLB:ej